

FEB 11 2002

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DECLARATION - USA PATENT APPLICATION

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name:

I believe I am an original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled **BENZIMIDAZOLE DERIVATIVES AS MODULATORS OF IgE**; the specification of which was filed on **October 16, 2001** as Application Serial No. **09/983,054**

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above;

I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56;

I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s) listed below, and insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code § 112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56, which became available between the filing date of the prior application and the national or PCT international filing date of this application:

Prior U.S.A. Application(s)

Application No.: 09/422,397	Filing Date: 10/21/99	Status: Patent No. 6,303,645
Application No.: 09/316,870	Filing Date: 05/21/99	Status: Patent No. 6,271,390
Application No.: 60/086,494	Filing Date: 05/22/98	

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful, false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of first inventor: Jagadish C. Sircar

Inventor's signature Jagadish C. Sircar
Date 1/16/02

Residence: 4832 Riding Ridge Rd., San Diego, CA 92130

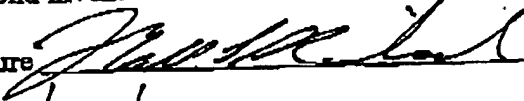
Citizenship: United States

Post Office Address: Same as above

Full name of second inventor: Mark L. Richards

Inventor's signature

Date


1/16/02

Residence: 11042 West Ocean Air Drive, Apt. No. 345, San Diego, CA 92130

Citizenship: United States

Post Office Address: Same as above

Full name of third inventor: Michael G. Campbell

Inventor's signature

Date

Residence: 5925 Rustic Wood Lane, Durham, NC 27713

Citizenship: Canada

Post Office Address: Same as above

Full name of fourth inventor: Michael W. Major

Inventor's signature

Date

Residence: 612 West Kenilworth Circle, Mequon, WI 53092

Citizenship: Canada

Post Office Address: Same as above

Send Correspondence To:

KNOBBE, MARTENS, OLSON & BEAR, LLP

Customer No. 20,995

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Residence: 4832 Riding Ridge Rd., San Diego, CA 92130

Citizenship: United States

Post Office Address: Same as above

Full name of second inventor: Mark L. Richards

Inventor's signature _____

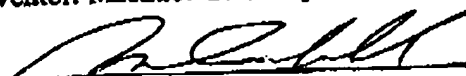
Date _____

Residence: 11042 West Ocean Air Drive, Apt. No. 345, San Diego, CA 92130

Citizenship: United States

Post Office Address: Same as above

Full name of third inventor: Michael G. Campbell

Inventor's signature 

Date Jan 16/2002

Residence: 5925 Rustic Wood Lane, Durham, NC 27713

Citizenship: Canada

Post Office Address: Same as above

Full name of fourth inventor: Michael W. Major

Inventor's signature _____

Date _____

Residence: 612 West Kenilworth Circle, Mequon, WI 53092

Citizenship: Canada

Post Office Address: Same as above

Send Correspondence To:
KNOBBE, MARTENS, OLSON & BEAR, LLP

Customer No. 20,995

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011402

Residence: 4832 Riding Ridge Rd., San Diego, CA 92130

Citizenship: United States

Post Office Address: Same as above

Full name of second inventor: Mark L. Richards

Inventor's signature _____

Date _____

Residence: 11042 West Ocean Air Drive, Apt. No. 345, San Diego, CA 92130

Citizenship: United States

Post Office Address: Same as above

Full name of third inventor: Michael G. Campbell

Inventor's signature _____

Date _____

Residence: 5925 Rustic Wood Lane, Durham, NC 27713

Citizenship: Canada

Post Office Address: Same as above

Full name of fourth inventor: Michael W. Major

Inventor's signature p l

Date 01-18-2002

Residence: 612 West Kenilworth Circle, Mequon, WI 53092

Citizenship: United States

Post Office Address: Same as above

Send Correspondence To:

KNOBBE, MARTENS, OLSON & BEAR, LLP

Customer No. 20,995

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ASSIGNMENT

WHEREAS, We, Jagadish C. Sircar, a United States citizen, residing at 4832 Riding Ridge Rd., San Diego, CA 92130, Mark L. Richards, a citizen of United States, residing at 8532B Via Mallorca, La Jolla, CA 92037, Michael G. Campbell, a citizen of Canada, residing at 5925 Rustic Wood Lane, Durham, NC 27713 and Michael W. Major, a citizen of the United States, residing at 612 West Kenilworth Circle, Mequon, WI 53092, have invented certain new and useful improvements in a BENZIMIDAZOLE DERIVATIVES AS MODULATORS OF IgE for which we have filed an application for Letters Patent in the United States, Application No. 09/422,397, filed October 2, 1999;

AND WHEREAS, AVANIR PHARMACEUTICALS (hereinafter "ASSIGNEE"), a California Corporation, with its principal place of business at 11388 Sorrento Valley Road, Suite 200, San Diego, CA 92121, desires to acquire the entire right, title, and interest in and to the said improvements and the said Application:

NOW, THEREFORE, in consideration of the sum of One Dollar (\$1.00) to me in hand paid, and other good and valuable consideration, the receipt of which is hereby acknowledged, we, the said inventors, do hereby acknowledge that we have sold, assigned, transferred and set over, and by these presents do hereby sell, assign, transfer and set over, unto the said ASSIGNEE, its successors, legal representatives and assigns, the entire right, title, and interest throughout the world in, to and under the said improvements, and the said application and all divisions, renewals and continuations thereof, and all Letters Patent of the United States which may be granted thereon and all reissues and extensions thereof, and all rights of priority under International Conventions and applications for Letters Patent which may hereafter be filed for said improvements in any country or countries foreign to the United States, and all Letters Patent which may be granted for said improvements in any country or countries foreign to the United States and all extensions, renewals and reissues thereof; and we hereby authorize and request the Commissioner of Patents of the United States, and any Official of any country or countries foreign to the United States, whose duty it is to issue patents on applications as aforesaid, to issue all Letters Patent for said improvements to the said ASSIGNEE, its successors, legal representatives and assigns, in accordance with the terms of this instrument.

AND WE HEREBY covenant and agree that we will communicate to the said ASSIGNEE, successors, legal representatives and assigns, any facts known to us respecting said improvements, and testify in any legal proceeding, sign all lawful papers, execute all divisional, continuing and reissue applications, make all rightful oaths and generally do

Application No.: 09/422,397
Filing Date: October 21, 1999

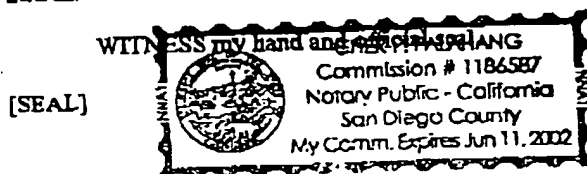
everything possible to aid the said ASSIGNEE, its successors, legal representatives and assigns, to obtain and enforce proper patent protection for said improvements in all countries.

IN TESTIMONY WHEREOF, I hereunto set my hand and seal this 16 day of January ~~19~~ 2002

Jagadish C. Sircar
Jagadish C. Sircar

STATE OF California } ss.
COUNTY OF San Diego

On January 16, 2002, before me, Cher Palahang, Notary Public, personally appeared Jagadish Sircar personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he executed the same in his authorized capacity(ies), and that by his signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



Cher P. Palahang
Notary Signature

IN TESTIMONY WHEREOF, I hereunto set my hand and seal this 16 day of January 2002

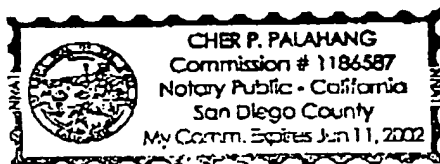
Mark L. Richards
Mark L. Richards

STATE OF California } ss.
COUNTY OF San Diego

On January 16, 2002, before me, Cher Palahang, Notary Public, personally appeared Mark L. Richards personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he executed the same in his authorized capacity(ies), and that by his signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

[SEAL]



Cher P. Palahang
Notary Signature

Application No.: 09/422,397
Filing Date: October 21, 1999

IN TESTIMONY WHEREOF, I hereunto set my hand and seal this 16 day of Jan 192002.

Michael G. Campbell
Michael G. Campbell

STATE OF North Carolina
COUNTY OF Wake ss.

On Jan 16, 2002, before me, Michael G. Campbell, personally appeared Michael G. Campbell personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he executed the same in his authorized capacity(ies), and that by his signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

[SEAL]

Susan D. Burch
Notary Signature

IN TESTIMONY WHEREOF, I hereunto set my hand and seal this _____ day of _____ 19____.

Michael W. Major

STATE OF _____ ss.

COUNTY OF _____

On _____, before me, _____, personally appeared Michael W. Major personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he executed the same in his authorized capacity(ies), and that by his signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

[SEAL]

Notary Signature

IN TESTIMONY WHEREOF, I hereunto set my hand and seal this _____ day of _____ 19__.

Michael G. Campbell

STATE OF

ss.

COUNTY OF

On _____, before me, _____, personally appeared Michael G. Campbell personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he executed the same in his authorized capacity(ies), and that by his signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

[SEAL]

Notary Signature

IN TESTIMONY WHEREOF, I hereunto set my hand and seal this 18 day of January 19 2002

Michael W. Major

STATE OF

ss.

COUNTY OF

On _____, before me, _____, personally appeared Michael W. Major personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he executed the same in his authorized capacity(ies), and that by his signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

[SEAL]

Susan M. Mark
Notary Signature

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From: AVANIR-C61CP3/SAM/GCL
Knobbe Martens Olson & Bear LLP

Intellectual Property Law

620 Newport Center Drive, 16th Floor, Newport Beach, CA 92660

To: ATTN: BOX MISSING PARTS
Assistant Commissioner for Patents
Washington, D.C. 20231

For: BENZIMIDAZOLE DERIVATIVES AS MODULATORS OF IgE

VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL-ENTITY STATUS

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I, the undersigned, do hereby declare that:

☒ I am an official of the small business concern empowered to act on behalf of the concern identified below:

NAME OF CONCERN: AVANIR PHARMACEUTICALS

ADDRESS OF CONCERN: 11388 Sorrento Valley Road, Suite 200
San Diego, CA 92121

I further declare that the above-identified small business concern qualifies as a small business concern as defined in 13 CFR 121.12, and reproduced in 37 CFR 1.9(d), for purposes of paying reduced fees to the United States Patent and Trademark Office, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both. I further declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention described in the patent or application identified above.

The individual, concern or organization identified above has not assigned, granted, conveyed or licensed, and is under no obligation under contract or law to assign, grant, convey or license, any rights in the invention to any person who would not qualify as an independent inventor under 37 CFR 1.9(c) if that person had made the invention, or to any concern which would not qualify as a small business concern under 37 CFR 1.9(d) or a nonprofit organization under 37 CFR 1.9(e).

If the rights held by the above-identified individual, concern or organization are not exclusive, each individual, concern or organization having rights in the invention are identified below. Each such individual, concern or organization must file separate verified statements averring to their status as small entities.

***NOTE: Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 CFR 1.27).**

FULL NAME:

ADDRESS:

☐ INDIVIDUAL ☐ SMALL BUSINESS CONCERN ☐ NONPROFIT ORGANIZATION

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small-entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b)).

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of

Applicant or Patenter: Sircar et al.
Application or Patent No.: 09/983,054
Filed or Issued: October 16, 2001

Attorney's Docket No.: AVANTR.C61CP3
Page 2

For: **BENZIMIDAZOLE DERIVATIVES AS MODULATORS OF IgE**

Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF PERSON SIGNING: Gerald Yakatan, Ph.D.

TITLE OF PERSON (if not an owner or individual): President and CEO

ADDRESS OF PERSON SIGNING: 11388 Sorrento Valley Road, Suite 200, San Diego, CA 92121

SIGNATURE: Gerald P. Yakatan

DATE: 11/16/02

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